

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE EIGHTEENTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION No: 10495 of 1996

Between:

K.S.P.K. Veerabhadra rao S/o Mallikarjuna Rao
R/o Hyderabad

..... PETITIONER

AND

- 1 Dy. General Manager-cum-Appellant Authority Andhra Bank, Central Office
Saifabad, Hyderabad
- 2 Personal Manager & Disciplinary Authority Andhra Bank, Personal Dept.
Central Office,
Saifabad, Hyderabad

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ of Certiorari or any other appropriate writ, order or direction to quash the order of the 2nd respondent dt: 18-8-1995, in Reference No.6-6-6/20/V/48/486, and also to quash the proceedings of the 1st respondent dt: 26-10-1995, in reference No.6-6-6/20/V/48/652.

Counsel for the Petitioner: MR.V.SRINIVAS

Counsel for the Respondents: MR.K.SRINIVASA MURTHY

The Court made the following:

ORAL ORDER:-

This writ petition is filed seeking a Certiorari calling for records relating to Proceedings No.6-6-6/20/V/48/486, dated 18.08.1995 issued by 2nd respondent, as confirmed by 1st respondent through proceedings No.6-6-6/20/V/48/652, dated 26.10.1995 and quash the same, as arbitrary and illegal.

The petitioner, while working as a Clerk in BS & BD branch of Andhra Bank, was placed under suspension with effect from 05.11.1993, on the ground that he had committed certain serious acts of misconduct. A charge sheet was issued on 03.03.1994 enumerating two charges. The first charge is that the petitioner prepared a debit voucher for Rs.9,500/- on 29.12.1992 describing it as Sundry Debtors TA/DA advance with the narration "*Amount of advance paid to Sri P.K. Das as per letter dated 26.12.1992*". It was alleged that the said voucher was presented by the petitioner at the cash counter of Central Accounts Department and received that amount fraudulently, exposing the Bank to financial loss. The second charge levelled against the petitioner is that he lived beyond known sources of income during the period 1990-93. The petitioner submitted his explanation denying the charges levelled against him. However, having not satisfied with the explanation of the petitioner, a detailed enquiry was initiated and as many as three witnesses were examined on behalf of the Management. The enquiry officer submitted his report holding the petitioner guilty of the charge, so far as the first charge is concerned and held that the second charge was not proved.

The disciplinary authority while accepting the enquiry officer's report and after completing the formalities, passed a final order dated 18.08.1995 inflicting the

punishment of stoppage of three annual grade increments with cumulative effect. Aggrieved by the same, the petitioner had preferred an appeal before the 1st respondent. However, the said appeal was also dismissed on 26.10.1995. Hence, this writ petition.

Learned counsel for the petitioner submits that there was no acceptable evidence to prove the Charge No.1. Even otherwise, the findings are perverse in its nature and no ordinary prudent man would draw such conclusion finding the petitioner guilty of the charges. The three witnesses examined on behalf of the Management have given inconsistent statement. Therefore, their evidence also cannot lead to come to the conclusion that the petitioner was found guilty of the charges.

Though no counter is filed, the learned counsel for the respondent – Bank strenuously contended that the charges in particular are grave in nature and the Management, in lieu of some inconsistency in the evidence of Management witnesses, took a lenient view in the matter and imposed punishment of stoppage of three annual grade increments with cumulative effect. The findings of the enquiry officer are perverse and may be that two views are possible and simply because one view was expressed, in the facts and circumstances of the case, this Court cannot interfere into such findings while exercising its jurisdiction under Article 226 of Constitution of India.

I have given my earnest consideration to the respectful submissions made by the learned counsel on either side and perused the impugned proceedings and other material available on record.

At the out set, I am of the opinion that the evidence of the Management witnesses is inconsistent and self-contradictory. MW.1 stated, *“no such advance was sanctioned to Sri P.K. Das. Somebody had committed fraud and withdrew a sum of Rs.9,500/- through this voucher. This bares the stamp of the Chief Officer, whereas, my designation is a Staff Manager.”* In the cross-examination of MW.1 nothing could be elicited since he also did not say anything against the petitioner. Insofar as the

evidence of MW.2 is concerned, she asserted that she paid the amount to Veera Bhadra Rao (the petitioner) Clerk, BS & BD Department after being authorized by the officer in the Department. The very same witness in the cross-examination stated that Mr. Veera Bhadra Rao has brought this voucher to her for payment. Further the witness has stated that she had obtained signature on the reverse of the voucher and it was the signature of Mr. Veera Bhadra Rao (the petitioner). She further stated that one Mrs. Kantha took the voucher back before the payment is effected informing her that she will talk to D.C.O. She also stated that finally the voucher was brought to her by the cash Officer (MW.3). Thus, at one breath she stated that the debit voucher was brought by the petitioner and at the second breath, she said that it was brought by Mrs.Kantha, the cash officer. It is further interesting to note that MW.3, the Cash Officer, was examined she also gave some inconsistent statement. She stated that Mr. Veera Bhadra Rao has received the payment against this voucher and in the cross-examination she stated that the M.Ex.2 was emanated from BS & BD Department and the payment was made to Mr. P.K. Das and she does not know to which department Mr. P.K. Das belong to. Since one Balakrishnan, Sub-staff and others from BS & BD Department are getting his vouchers, she presumed that Mr.P.K. Das was working in BS & BD Department. When her cross-examination was adjourned for a further date, MW.3 failed to attend and she never responded thereafter. However, basing on this evidence the enquiry officer and the disciplinary authority as well as the appellate authority came to the conclusion that the petitioner was guilty of the offence and shall be punished with stoppage of three annual grade increments with cumulative effect. It is also interesting to notice that both MWs.2 and 3 were also charged for the very same transaction being they were also parties in passing the debit voucher and drawing the voucher by somebody else causing loss to the bank. Therefore, the evidence of MWs.2 and 3 cannot be given much credence since they were trying to save themselves by giving such an evidence and in fact both of them i.e., MWs.2 and 3 gave inconsistent statements insofar as drawing of the debit voucher amount and also signature on the reverse of it and also as to bringing the said debit voucher to the Cash Department by some person.

However, in view of some oral evidence and other documentary evidence, the department has come to some conclusion saying that the petitioner was guilty of certain misconduct, and therefore, it cannot be said that this is a case of no evidence

at all. Maybe it is a case of some perverse finding, but in a departmental case like this, even hearsay evidence can be taken into consideration for the purpose of holding a delinquent officer guilty of the charge. Be that as it may, I am of the opinion that, in view of the fact that nothing much has been proved against the petitioner and MWs.2 and 3 themselves gave inconsistent statements who were involved in the same transaction and further MW.3 did not respond for cross-examination, in the overall circumstances, the punishment of stoppage of three annual grade increments with cumulative effect is disproportionate to that of the misconduct alleged. Therefore, I am of the view that the disciplinary authority as well as the appellate authority could have taken the overall circumstances into consideration and when the charge was not grave and the punishment should have been the same as was meted out to MWs.2 and 3. Therefore, the impugned proceedings do not sustain scrutiny of law and they are set aside and the punishment imposed by the disciplinary authority as confirmed by the appellate authority is modified to the following extent.

In the result, the petitioner shall suffer stoppage of three increments without cumulative effect. Consequently, the petitioner is entitled for full wages for the period of suspension with all consequential benefits like increments, arrears of increments after completion of three years from the date of imposing of the punishment.

Accordingly, the writ petition is allowed to the extent indicated above. No order as to costs.

18.07.2005

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To

- 1 The Deputy General Manager-cum-Appellant Authority Andhra Bank, Central Office Saifabad, Hyderabad
- 2 The Personal Manager & Disciplinary Authority, Andhra Bank, Personal Dept. Central Office,
Saifabad, Hyderabad

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